



UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:) Docket No. 14-0001
)
 Real Pets Corporation,)
)
)
 Respondent) Complaint

There is reason to believe that the respondent named herein willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), hereinafter referred to as the Act, and the regulations and standards (9 C.F.R. § 1.1 et seq.) issued pursuant to the Act, and, therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging the following:

I

A. Real Pets Corporation hereafter referred to as the respondent, is a corporation with an address of 14 Hayloft Road, Denver, Pennsylvania 17517. The register agent for the Respondent is M. Burr Keim Company, 2012 Arch Street, Philadelphia, Pennsylvania 19103.

B. The respondent, at all times material herein, was licensed and operating as a dealer as defined in the Act and the regulations. The respondent acknowledged in writing on its

application for license renewal that it received the regulations and standards contained in 9 CFR, Subpart A, Parts 1,2 and 3.

The respondent's license number is 23-B-0060.

II

A. On October 7, 2008, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

(1) Supplies of food and bedding were not stored adequately to protect such supplies against spoilage or deterioration and infestation or contamination by vermin including but not limited to storing food supplies in containers with tightly fitting lids or covers or in the original containers as received from the commercial sources of supply (9 C.F.R. § 3.25 (c));

(2) Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris in order to minimize vermin infestation, odors, and disease hazards (9 C.F.R. § 3.25(d));

(3) Animals were not fed each day food that was free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animals (9 C.F.R. § 3.29(a)); and

(5) Sufficient potable water was not provided daily to animals (9 C.F.R. § 3.55).

III

On November 6, 2008, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

(1) Housing facilities for animals were not structurally sound and not maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals (9 C.F.R. § 3.25(a));

(2) Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris in order to minimize vermin infestation, odors, and disease hazards (9 C.F.R. § 3.25(d));

(3) Potable water was not provided and all dirty watering receptacles were not sanitized (9 C.F.R. § 3.30); and

(4) Animals in primary enclosures that were soiled or wet to a degree that might be harmful or uncomfortable to the animals therein due to leakage of the watering system, discharges from dead or dying animals, spoiled perishable foods, or moisture

condensation, were not transferred to clean primary enclosures (9 C.F.R. § 3.31(a)(2)).

IV

A. On January 22, 2009, APHIS inspected respondent's premises and found that the respondent failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

B. On January 22, 2009, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

(1) Housing facilities for animals were not structurally sound and not maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals (9 C.F.R. § 3.25(a)); and

(2) A sufficient number of employees was not utilized to maintain the prescribed level of husbandry practices set forth in the regulations under the supervision of an animal caretaker who has a background in animal husbandry or care (9 C.F.R. § 3.32).

V

On March 5, 2009, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

(1) Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris in order to minimize vermin infestation, odors, and disease hazards (9 C.F.R. § 3.25(d));

VI

On January 19, 2011, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

(1) Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris in order to minimize vermin infestation, odors, and disease hazards (9 C.F.R. § 3.25(d)); and

(2) Animals in primary enclosures that were soiled or wet to a degree that might be harmful or uncomfortable to the animals therein due to leakage of the watering system, discharges from

dead or dying animals, spoiled perishable foods, or moisture condensation, were not transferred to clean primary enclosures (9 C.F.R. § 3.31(a)(2)).

VII

On or about March 10th, 2011, April 1st, 2011 and April 12, 2011 the respondent knowingly obtained animals from a person who is required to be licensed but who did not hold a license in willful violation of section 2.132(d) of the regulations (9 C.F.R. § 2.132(d)). Each transaction constitutes a separate violation of the regulations.

VIII

On May 18, 2011, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

(1) Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris in order to minimize vermin infestation, odors, and disease hazards (9 C.F.R. § 3.25(d));

(2) Animals in primary enclosures that were soiled or wet to a degree that might be harmful or uncomfortable to the animals therein due to leakage of the watering system, discharges from

dead or dying animals, spoiled perishable foods, or moisture condensation, were not transferred to clean primary enclosures (9 C.F.R. § 3.31(a)(2));

(3) Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris (9 C.F.R. § 3.125(d)); and

(4) A suitable sanitary method was not provided to eliminate rapidly, excess water from indoor housing facilities (9 C.F.R. § 3.126(d)).

IX

On June 8, 2011, APHIS inspected respondent's premises and found that the respondent failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b)(3) of the regulations (9 C.F.R. § 2.40(b)(3)).

On June 8, 2011, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

(1) All food receptacles were not kept clean and sanitized at least once every 2 weeks and self-feeders were not maintained

to prevent molding, deterioration or caking of the feed (9 C.F.R. § 3.29(d)).

X

On October 4, 2011, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

(1) Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris in order to minimize vermin infestation, odors, and disease hazards (9 C.F.R. § 3.25(d));

(2) Indoor housing facilities for animals were not adequately ventilated to provide for the health and comfort of the animals at all times since fresh air was not provided and ventilation was not provided to minimize odors (9 C.F.R. § 3.26(b));

(3) Animals in primary enclosures that were soiled or wet to a degree that might be harmful or uncomfortable to the animals therein due to leakage of the watering system, discharges from dead or dying animals, spoiled perishable foods, or moisture condensation, were not transferred to clean primary enclosures (9 C.F.R. § 3.31(a)(2));

(4) A sufficient number of employees was not utilized to maintain the prescribed level of husbandry practices set forth in the regulations under the supervision of an animal caretaker who has a background in animal husbandry or care (9 C.F.R. § 3.32);

(5) Indoor housing facilities for rabbits were not adequately ventilated to provide for the health and comfort of the animals at all times (9 C.F.R. § 3.51(b));

(6) Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris (9 C.F.R. § 3.125(d));

(7) Indoor housing facilities for animals were not adequately ventilated by natural or mechanical means to provide for the health and to prevent discomfort of the animals at all times and were not ventilated to minimize drafts, odors, and moisture condensation (9 C.F.R. § 3.126(b)); and

(8) Excreta was not removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors and when enclosures were cleaned by hosing or flushing, adequate measures were not taken to protect the animals confined in such enclosures from being directly sprayed with the stream of water or wetted involuntarily (9 C.F.R. § 3.131(a)).

XI

On January 31, 2012, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

(1) Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris in order to minimize vermin infestation, odors, and disease hazards (9 C.F.R. § 3.25(d)); and

(2) Animals in primary enclosures that were soiled or wet to a degree that might be harmful or uncomfortable to the animals therein due to leakage of the watering system, discharges from dead or dying animals, spoiled perishable foods, or moisture condensation, were not transferred to clean primary enclosures (9 C.F.R. § 3.31(a)(2)).

XII

On May 31, 2012, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

(1) Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris in order to minimize vermin infestation, odors, and disease hazards (9 C.F.R. § 3.25(d)); and

(2) Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris (9 C.F.R. § 3.125(d)).

XIII

A. On May 23, 2013, APHIS inspected respondent's premises and found that the respondent failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b)(2) and (3) of the regulations (9 C.F.R. § 2.40(b)(2) and (3)).

B. On May 23, 2013, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

(1) Animals were not handled as expeditiously and carefully as possible and in such a manner that did not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort (9 C.F.R. § 2.131(b)(1));

(2) Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris (9 C.F.R. § 3.125(d));

(3) Each hamster was not provided with the minimum amount of floor space in any primary enclosure as required by the regulations (9 C.F.R. § 3.28(c)(2)(iii));

(4) Premises (buildings and grounds) were not kept clean, free of accumulations of trash and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart (9 C.F.R. § 3.31(b));

(5) Animals housed in the same primary enclosure were not maintained in compatible groups (9 C.F.R. § 3.33);

(6) A suitable nest box containing clean nesting material was not provided in each primary enclosure housing a female with a litter less than one month of age (9 C.F.R. § 3.53(a)(5)); and

(7) Primary enclosures were not constructed and maintained so as to provide sufficient space for the animals to make normal postural adjustments with adequate freedom of movement (9 C.F.R. § 3.53(c)(2)).

XIV

On June 25, 2013, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

(1) Animals in primary enclosures that were soiled or wet to a degree that might be harmful or uncomfortable to the animals therein due to leakage of the watering system, discharges from dead or dying animals, spoiled perishable foods, or moisture condensation, were not transferred to clean primary enclosures (9 C.F.R. § 3.31(a)(2)); and

(2) Excreta was not removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors, and when enclosures were cleaned by hosing or flushing, adequate measures were not taken to protect the animals confined in such enclosures from being directly sprayed with the stream of water or wetted involuntarily(9 C.F.R. § 3.131(a)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations and standards issued under the Act, this complaint shall be served upon the respondent. The

respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and
2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order:

(a) Requiring the respondent to cease and desist from violating the Act and the regulations and standards issued thereunder;

- (b) Assessing civil penalties against the respondent
in accordance with section 19 of the Act (7 U.S.C. § 2149); and
(c) Suspending the respondent's license or
permanently revoking the respondent's license under the Act.

Done at Washington, D.C.
this 30th day of Sept., 2013

[REDACTED]
Administrator
Animal and Plant Health
Inspection Service

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